

**COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION**

FISCAL NOTE

L.R. No.: 1604-05
Bill No.: SCS for HS for HB 470
Subject: Crimes and Punishment; Criminal procedure; Drugs and Controlled Substances;
Law Enforcement Officers and Agencies
Type: Original
Date: April 29, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General	(More than \$214,811)	(More than \$100,000)	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(More than \$214,811)	(More than \$100,000)	(More than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government			

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Attorney General**, the **State Public Defender**, the **St. Louis Metropolitan Police Department**, the **Department of Conservation**, and the **Department of Natural Resources** assume this proposal would not fiscally impact their agency.

Officials from the **Department of Corrections (DOC)** assume penalty procedures are either created or enhanced in this proposal.

The DOC cannot currently predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY02 average of \$35.52 per inmate, per day or an annual cost of \$12,965 per inmate) or through supervision provided by the Board of Probation and Parole (FY02 average of \$3.10 per offender, per day or an annual cost of \$1,132 per offender).

ASSUMPTION (continued)

The DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through incarceration or probation would result in additional costs. Although the exact fiscal impact is unknown, the DOC estimates that potential costs will be in excess of \$100,000 per year.

Officials from the **Office of Secretary of State (SOS)** assume the bill revises various crimes and criminal procedures. The bill could result in the Department of Corrections and the Missouri State Highway Patrol promulgating rules to implement the provisions of this act. These rules will be published in the *Missouri Register* and the *Code of State Regulations*. Based on experience with other divisions, the rules, regulations, and forms issued by the Committee could require as many as 26 pages in the *Code of State Regulations* and half again as many pages in the *Missouri Register*, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the *Missouri Register* is \$23 and the estimated cost of a page in the *Code of State Regulations* is \$27. Based on these costs, the estimated cost of the proposal is \$1,599 in FY 04 and unknown in subsequent years. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Sale of Ephedrine (\$195.417)

Officials from the **State Public Defender**, the **State Courts Administrator**, the **Office of Prosecution Services**, the **Department of Health and Senior Services**, and the **Department of Public Safety - Missouri State Highway Patrol** assume this proposal would not fiscally impact their agencies.

ASSUMPTION (continued)

Judges (§478.610)

Officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation relating to an additional circuit court judge in the 113th circuit would have a fiscal impact on the courts. The proposed legislation would add an additional circuit court judge in the 113th judicial circuit, beginning January 1, 2007. Currently, the salary for a circuit court judge is \$108,000 per year, plus fringe benefits, for a total cost of \$177,680. Section 485.040, RSMo requires that all circuit court judges have a court reporter. At present, the salary for a court reporter is \$48,660 per year, plus fringe benefits, for a total cost of \$68,352. CTS estimates the Fiscal Year 2007 costs to total \$123,016 using FY 03 dollars.

30-Hour Hold Without Warrant (§544.170)

In response to a similar proposal, officials from the **Columbia Police Department** assumed the proposal could result in possible savings for not having to call in an officer or typist to finish reports prior to the jail releasing a suspect. More time would allow for the paperwork to get to the prosecutor through normal routine channels.

In response to a similar proposal, officials from the **Boone County Sheriff's Department** assumed there would be an increase in costs of approximately \$5,000 per year to their agency for the increased time that they will have to house the people arrested.

Oversight assumes there could be some increase in local jail populations as a result of this proposal. However, Oversight assumes this would be at the discretion of the political subdivisions and any fiscal impact to them should be minimal.

Release of Anhydrous Ammonia (§577.075)

Officials from the **Department of Natural Resources** assume the proposed legislation would have no fiscal impact on their agency.

In responses to a similar proposal, officials from the **Department of Agriculture** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of Prosecution Services** assume prosecutors could absorb the costs of the proposed legislation within existing resources.

ASSUMPTION (continued)

Closing records for suspended sentence (§610.106)

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state according to the Patrol's Information System Division, a new system would have to be developed to seal and close records as required in Section 610.106. This would result in enhancements and new procedures being designed and developed. The new system would include procedure enhancements, enhancements to MULES transactions, Prosecutor Interface transactions, Court Interface transactions, Automated Fingerprint Information System (AFIS) enhancements, a new batch procedure to 'seal' records and an enhancement to the batch 'rap' sheet procedure. Based upon Function Point Metrics and the rate of delivery, it is estimated that the above procedures would require 1,073 hours of contract services at the current rate of \$107 per hour. This would result in a cost of \$114,811 (one-time) in FY 04.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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GENERAL REVENUE

Costs – Department of Corrections

Incarceration/probation costs (various sections)	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
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Costs – Office of State Courts Administrator

Additional circuit court judge (\$478.610)*	\$0	\$0	\$0
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* Costs estimated to exceed \$100,000, beginning FY 07.

Costs - Department of Public Safety - Missouri State Highway Patrol

Programming costs	(\$114,811)	\$0	\$0
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ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(More than \$214,811)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

Section 195.215

The proposed legislation would make it a class A felony to manufacture a controlled substance near schools by unlawfully manufacturing a controlled substance within 2,000 feet of any school or school bus. It is currently a class B felony to manufacture a controlled substance.

Section 195.417

This proposal prohibits the sale of more than two packages of six grams of any over-the-counter drug having a sole active ingredient of ephedrine, pseudoephedrine, or phenylpropanolamine. It also prohibits the sale of more than two packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, or phenylpropanolamine. These drugs must be kept behind the counter or within fifteen feet of an attended checkout counter unless the store utilizes an anti-theft system that specifically prevents the theft of these drugs. Violation of the bill is a class A misdemeanor.

Section 478.610

Beginning on January 1, 2007, the number of circuit judges in the 13th judicial circuit would increase from three to four. The fourth circuit judge would be elected in 2006 for a two-year term and thereafter in 2008 for a full six-year term.

Section 542.276 and Section 578.160

The proposed legislation would set out the requirements for a peace officer to obtain a warrant via the telephone. The proposal would allow the prosecuting attorney to give voice authorization to the applicant to affix his or her signature to the application. After the prosecutor's signature is affixed, the applicant would contact a judge who could take an oral statement under oath that is recorded. The proposal would also set out the forms for the application and affidavit for a telephonic search warrant.

DESCRIPTION (continued)

Section 544.170

The proposed legislation would authorize a thirty hour hold for all persons arrested without a warrant.

Section 565.085

The proposed legislation would create the crime of endangerment of corrections personnel, a class D felony. The proposal would make it a class B felony to put an employee of the Department of Corrections, or a person assigned to work in a jail, prison, or correctional facility in danger of contracting HIV, Hepatitis B, or Hepatitis C through the endangerment of corrections personnel. The proposal would also make it a class A misdemeanor to cause or attempt to cause an employee of the Department of Corrections, or a person assigned to work in a jail, prison, or correctional facility to come into contact with an unidentified substance.

Sections 570.400, 570.405, 570.410, 570.415

The proposed legislation would create the crime of motor vehicle theft if a person appropriates a motor vehicle of another with the purpose to deprive him or her of it, without consent or by means of deceit or coercion. Motor vehicle theft would be a Class C felony. The proposal would create the crime of carjacking when a person obtains unauthorized possession or control of a motor vehicle from another individual in actual possession by intimidation, force, or threat of force. Carjacking would be a Class B felony. This proposal would create the crime of unauthorized use of a vehicle if a person knowingly takes, operates, exercises control over, rides in, or otherwise uses a vehicle without the consent of the owner or has custody of the vehicle pursuant to an agreement with the owner of the vehicle and uses the vehicle in gross deviation from the agreed purpose. Violation of this provision would be a Class A misdemeanor. The proposal would also create the crime of tampering with a motor vehicle if a person knows that he or she does not have the consent of the owner and takes, operated, or otherwise uses a motor vehicle. The crime of tampering would be a Class B misdemeanor. A second violation of this provision would be a Class A misdemeanor. Third and subsequent violations would be a Class D felony.

Section 574.110

This proposal would make it a class A misdemeanor to violate the lawful order of a law enforcement officer at the scene of an accident or emergency. The provisions would not apply to emergency personnel when in the performance of their duties.

DESCRIPTION (continued)

Section 577.075

The proposed legislation would create the crime of unlawful release of anhydrous ammonia, a class B felony, unless the release causes death or serious physical injury to any person, in which case it would be a class A felony.

Section 578.160

The proposal would also create the crime of intercepting a cellular or radio message, a class A misdemeanor. A person would commit the crime by intercepting information that was not intended for that person and conveying that information to anyone other than the original intended recipient.

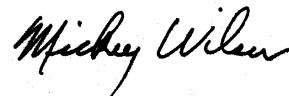
Section 610.106 and 610.110

The proposed legislation would allow the sealing of court records when the court imposes a suspended sentence and the person successfully completes any court-ordered probation. Once the records are sealed or closed, the arrest, charges, conviction or guilty plea cannot be used for impeachment purposes. A person would not be guilty of perjury if, in a later case, the person failed to disclose the existence of the sealed record.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of State Courts Administrator
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Public Safety
 – Missouri State Highway Patrol
Department of Conservation
Office of Secretary of State
Office of State Public Defender
St. Louis Metropolitan Police Department
Office of Prosecution Services
Department of Agriculture



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